

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-1586

Jackie D. Edberg,

Plaintiff-Appellant,

v.

Marvin Lumber and Cedar Company,
d/b/a Marvin Windows and Doors

Defendant-Appellee.

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Appeal from the United States
District Court for the
District of Minnesota.
[UNPUBLISHED]

Submitted: October 18, 1999

Filed: October 25, 1999

Before BOWMAN, BEAM and MURPHY, Circuit Judges.

PER CURIAM.

Jackie D. Edberg appeals from a summary judgment granted to his former employer Marvin Lumber and Cedar Company d/b/a/ Marvin Windows and Doors in this action alleging violations of the Americans With Disabilities Act ("ADA"), 42 U.S.C. § 12101 et seq. (1994), the Family and Medical Leave Act ("FMLA"), 29 U.S.C. § 2601 et seq. (1994), and the Minnesota Human Rights Act ("MHRA"), Minn. Stat. Ch. 363 (1996). Edberg injured his back while working as a woodbead operator and was eventually dismissed after being absent from work for almost three months.

On appeal he has not briefed the dismissal of his FMLA claim by the district court¹ and thus has waived it, see United States v. Simmons, 964 F.2d 763, 777 (8th Cir.), cert. denied, 506 U.S. 1011 (1992), but he argues that the court erred in a number of ways in granting summary judgment on his other claims. After carefully reviewing the record, we conclude that Edberg has not demonstrated that he is disabled within the meaning of the ADA and the MHRA. See e.g. Sutton v. United Air Lines, --- U.S. ---, 119 S.Ct. 2139 (1999); Murphy v. United Parcel Serv., --- U.S. ---, 119 S.Ct. 2133 (1999). Because we agree with the essential points in the district court's opinion, we affirm without further discussion. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.